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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,459	03/06/2002	Yoshinobu Hara	108426-00014	6923
4372 7590 01/11/2008 ARENT FOX LLP 1050 CONNECTICUT AVENUE, N.W. SUITE 400 WASHINGTON, DC 20036			EXAMINER NELSON, FREDA ANN	
			ART UNIT 3628	PAPER NUMBER
			NOTIFICATION DATE 01/11/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

Application No.

10/031,459

Applicant(s)

HARA ET. AL.

Examiner

Freda A. Nelson

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

The amendment received on October 17, 2007 is acknowledged and entered.

Claims 1 and 7 have been amended. Claims 1-12 are currently pending.

### ***Response to Amendment and Arguments***

Applicant's arguments filed May 30, 2007 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to applicant's arguments that Thompson and McMahon fail to disclose or suggest selecting a seller, the examiner respectfully disagrees. However, Thompson et al. disclose a Pricing Engine module could be added to the configuration system to generate pricing and cost information for individual products, components, projects, etc. both on a real-time, on-going basis, as the user interacts with the system, and also to provide total (or sub-total) pricing data for the configured product or project; and the Pricing Engine may include bid and quote generation functionality to facilitate the production and transmission of bid/quotes by users to their ultimate customers (col. 18, lines 41-56; FIGS. 7, 13 and 23). Thompson et al. does not explicitly disclose selecting a seller, however, it would have been obvious to one of

ordinary skill in the art at the time the invention was made that a seller or winner of a bid would be selected. There would be no need for the bidding of products if a seller would not be selected. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Thompson et al. to include the selection feature to enable a buyer to select a seller.

In response to applicant's argument that Thompson fails to disclose or suggest an automatic price correcting system and associated website, wherein prices are corrected on the basis of input from the seller, the examiner asserts that when the specifications of the article are changed and to correct the standard price stored in the standard price storing section using the correction value of price and to send the corrected standard price to the computer of the buyer (see FIGS. 4b and 6c).

#### **Examiner Note**

Examiner cites particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being unpatentable over McMahon et al. (US PG Pub. 2001/0034726), in view of Thompson et al. (US Patent Number 6,810,401).

As per claims 1 and 7, McMahon et al. disclose an automatic price correcting system in which, connected with a buyer's computer and a seller's computer, for correcting a standard price of the article which has been presented by the seller based on a specification of the article, according to changes in the , the specifications having a plurality of items, the system comprising:

a standard specifications table for storing specifications presented by the buyer (paragraph [0010]);

means for sending to the computers for the plurality of sellers a screen for inputting a bidding price of the article and unit prices for respective items of the specification, presented by the plurality of sellers;

a correction table for storing information required to correct the standard price of the article, presented by the seller (paragraph 0074); and

means for sending to the buyer's computer a screen for inputting changes in the specification for the standard specifications (abstract);

a control device adapted to convert difference between the specifications of the article stored in the standard specifications table and changed specifications of the article, into a correction value of price, through means of referring to the correction table, when the specifications of the article are changed and to correct the standard price stored in the standard price storing section using the correction value of price and to send the corrected standard price to the computer of the buyer (FIGS. 4b and 6c).

McMahon does not disclose a bidding price storing section for storing bidding prices presented by the plurality of sellers in response to specifications of an article presented by the buyer;

a seller selecting section for selecting a seller from the plurality of sellers based on at least information in the bidding price storing section;

a standard price storing section for storing, as a standard price, the bidding price presented by a seller selected from the plurality of sellers, the bidding prices and the unit prices for respective items the specifications of which have been received;

a control device adapted to obtain a difference between the standard specifications of the article stored in the standard specifications table and changed specifications of the article for each item of the specifications;

means for converting the difference into a correction value of price through means of referring to the correction table, storing data which have been received from the selected seller;

means for calculating a total of correction values, which is a sum of correction values of prices for respective items of the specifications;

means for extracting the standard price from the standard price storing section;

means for correcting the standard price by the total of correction values, and

means for presenting the corrected standard price to the buyer's computer.

However, Thompson et al. disclose a Pricing Engine module could be added to the configuration system to generate pricing and cost information for individual products, components, projects, etc. both on a real-time, on-going basis, as the user interacts with the system, and also to provide total (or sub-total) pricing data for the configured product or project; and the Pricing Engine may include bid and quote generation functionality to facilitate the production and transmission of bid/quotes by users to their ultimate customers (col. 18, lines 41-56; FIGS. 7, 13 and 23). Thompson et al. does not explicitly disclose selecting a seller, however, it would have been obvious to one of ordinary skill in the art at the time the invention was made that a seller or winner of a bid would be selected. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Thompson et al. to include the selection feature to enable a buyer to select a seller.

Thompson et al. further disclose the utilization of data tables and formulas to look up, calculate and store base prices 50 plus add-on prices 52 of available product options; and the total price 53 can include project-based price adjustments if applicable. Pricing of products utilizes a combination of values accessed from a table and enhanced by formulas, which calculate up charges, add-ons and other product options.

These methodologies allow the lookup, calculation and storage of unit base prices 50 plus prices 52 for all applicable product features and add-ons; and project-based price adjustments are also available for customer discounts, promotions and competitive bidding situations (col. 12, lines 21-33).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of McMahon to include the feature of Thompson et al. in order to provide the user the option of bidding for a configured product.

As per claims 2 and 8, McMahon et al. disclose wherein the control device is adapted to obtain difference between the specifications of the article stored in the standard specifications table and changed specifications of the article, for each item of the specifications, to convert the difference of the specifications for each item of the specifications into a correction value of price through means of referring to the correction table and to correct the standard price stored in the standard price storing section by a total of correction values, which is a sum of correction values of prices for respective items of the specifications (paragraph 0074)).

As per claims 3 and 9, McMahon et al. disclose an automatic price correcting system according to claim 2, wherein the correction table stores unit prices for units of respective items of the specifications (paragraph [0010]).



As per claims 4 and 10, McMahon et al. disclose an automatic price correcting system according to claim 1, wherein the control device is adapted to provide for the buyer a specifications change inputting screen for inputting changes in the specifications, to calculate a corrected standard price in response to changed specifications input through the specifications change inputting screen, and to present the corrected standard price to the buyer (paragraph [0072]).

As per claims 5 and 11, McMahon et al. disclose an automatic price correcting system according to claim 4, wherein contents of the correction table are displayed on the specifications change inputting screen (paragraphs [0050],[0056]).

As per claims 6 and 12, McMahon et al. disclose an automatic price correcting system according to claim 4, wherein the correction table is associated with the specifications change inputting screen so that for respective items of the specifications displayed on the specifications change inputting screen, the buyer can refer to the correction table corresponding to the items of the specifications (FIG 6c).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is

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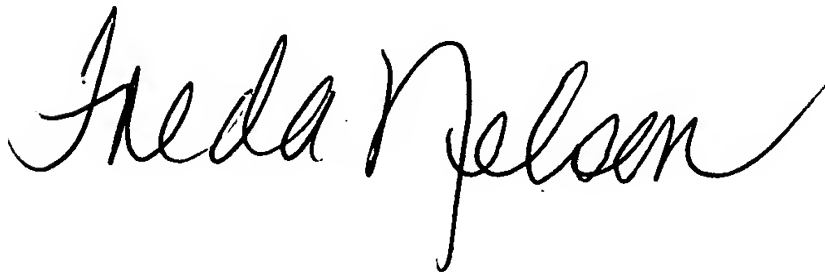
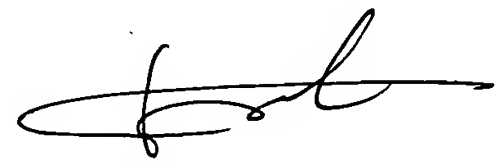
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FAN 08/02/2007

A handwritten signature in cursive script that reads "Freda Nelson".A handwritten signature in cursive script that reads "Igor N. Borissov".

IGOR N. BORISSOV  
PRIMARY EXAMINER